# BEFORE THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

In the Matter of

JENNIFER L. LANGLEY, P.A.,

Holder of License No. **2433** for the Performance of Health Care tasks In the State of Arizona.

Board Case No. PA-09-0031A

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(License Suspension)

On November 18, 2009, this matter came before the Arizona Regulatory Board of Physician Assistants ("Board") for consideration of the Administrative Law Judge (ALJ), Brian Tully's Decision, including proposed Findings of Fact, Conclusions of Law and Recommended Order. Jennifer L. Langley, P.A. ("Respondent") was not present and was not represented by counsel. Assistant Attorney General Anne Froedge represented the State. Mary Jo Foster, Assistant Attorney General with the Solicitor General's Section of the Attorney General's Office, was available to provide independent legal advice to the Board.

The Board voted to issue the following Findings of Fact, Conclusions of Law and Order after due consideration of the facts and law applicable to this matter.

#### FINDINGS OF FACT

- 1. The Arizona Regulatory Board of Physician Assistants ("Board") is the authority for the regulation and control of the practice of health tasks by physician assistants in the State of Arizona.
- 2. Jennifer Langley, P.A. ("Respondent") is the holder of License No. 2433 issued by the Board for the performance of health care tasks in Arizona.
- 3. On May 3, 2009, Respondent presented to the emergency department at Scottsdale Healthcare Thompson Peak with a chief complaint of overdose.
- 4. The emergency department's Evaluation and Treatment Admit Report reflects the following History of Present Illness:

This is a [redacted]-year-old female with history of depression. Apparently, she took seven alprazolam, a half tablet of bupropion or a generic form of Wellbutrin, one Trazodone tablet. She had three beers and a scotch. This is per the son who found the patient who told this to EMS. I asked the patient why she took this medication. She states just because. I asked if she was trying to hurt herself and she said "no." She then jokingly said that she took some heroin and Dilaudid. I asked her if this was in fact the case and she said, "No. I am just joking." The patient does have slightly slurred and slow speech. She does have depressed mental status and is in and out of sleep during my exam. The patient does move all four extremities, answers questions appropriately. She denies any homicidal ideation. Again, for me has denied suicidal ideation but she cannot tell me exactly why she took these medications. She continues to repeat "just because." She states she does not feel depressed. No other associated signs or symptoms. No other aggravating or alleviating factors. The history was obtained from the patient as well as EMS records which were reviewed.

- 5. Respondent was admitted to the hospital for treatment of her overdose. She was discharged on May 4, 2009.
- 6. On or about May 15, 2009, Board staff received a letter from Mary Kopp, RN, BSN, MS, the Associate Vice President Clinical Services at Scottsdale Healthcare Thompson Peak, disclosing of Respondent's hospitalization and treatment at the facility for medication ingestion and alcohol intoxication. Upon receipt of that letter, the Board initiated Case Number PA-09-0031.
- 7. By letter dated May 18, 2009, Kathleen Muller, the manager of the Board's Physician Health Program, informed Respondent of the Board's investigation.
- 8. By a separate letter dated May 18, 2009, Ms. Muller informed Respondent that she was required to meet with David Greenberg, M.D., one of the Board's Addiction Medicine Consultant, for a health assessment on May 20, 2009. Respondent was given the option to "attend an evaluation or residential treatment at one of the Board approved facilities by May 20, 2009." Ms. Muller provided Respondent with a list of the approved facilities.
- 9. By letter dated May 18, 2009, Ms. Muller informed Will V. Jeffers, D.O., Respondent's supervising physician, of the Board's investigation of Respondent. Dr. Jeffers was requested to "provide a complete narrative response to these allegations no later than May 29, 2009.

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- 10. On May 20, 2009, Respondent presented to Dr. Greenberg for a health assessment, which included urine and hair testing.
- 11. On May 20, 2009, Respondent submitted urine and hair samples, which were analyzed by Southwest Laboratories, Inc. The test results for Respondent's samples were positive for amphetamine and opiates.
- 12. After performing Respondent's health assessment and reviewing the laboratory test results, Dr. Greenberg opined that Respondent needed both an inpatient chemical dependency evaluation and a psychiatric evaluation. Dr. Greenberg's opinion was that Respondent should cease working until successfully undergoing the evaluations and any recommended treatments. Dr. Greenberg formalized his recommendations in a report dated May 30, 2009.
- 13. By letter dated June 1, 2009, Respondent requested that the Board grant her an extension of one month for her narrative response to the allegation of substance abuse.
- 14. By letter dated June 3, 2009, Dr. Jeffers submitted his response to the allegations against Respondent. Dr. Jeffers response reads as follows:

The following is what I am aware of relating to the day of hospitalization of [Respondent]. She informed me that she was doing heavy labor all day at home fixing a shower. At the end of the day, her back was sore and in pain so she took a muscle relaxant and apparently had a beer at that time as well. Soon after, she fell asleep and was difficult to arouse by her son so he called 911 fearing for her safety. The next thing she knew she was in the hospital with one to one supervision. After discussing this with her since being discharged from hospital, she states the main problem is that she failed to tell them that she was taking a prescribed ADD medicine named Vyvnase which showed positively for amphetamine. If you have any questions please feel free to contact me...

- 15. By email dated June 3, 2009, Dr. Greenberg advised Ms. Muller wrote that "we do not have critical psychiatric records, nor do we have a psychiatrist's clearance for this PA to safely return to the practice of medicine." Dr. Greenberg stated that he could not clear Respondent to safely return to work at that time.
- 16. By email dated June 3, 2009, Ms. Muller forwarded to William Wolf, M.D., the Board's chief medical consultant, copies of Respondent's health care assessment and

correspondence from Dr. Greenberg recommending an inpatient evaluation for Respondent.

- 17. By email dated June 3, 2009, Dr. Wolf acknowledged reviewing the submitted documentation and approved Dr. Greenberg's recommendation.
- 18. During its investigation, Board staff received a copy of a Psychiatric Evaluation of Respondent performed on March 18, 2009 by her psychiatrist, Ramiro Guillen, M.D. Respondent reported a history of ADHD. Respondent also stated to Dr. Guillen that she was no on any current medications. Dr. Guillen started Respondent on Vyvanse 30mg.
- 19. Board staff also obtained a Psychiatric Progress Note for medication management for Respondent by Dr. Guillen on April 10, 2009. Dr. Guillen increased Respondent's Vyvanse dosage to 60 mg.
- 20. Board staff received Dr. Guillen's Psychiatric Progress Note for a May 1, 2009 visit by Respondent. Dr. Guillen increased Respondent's Vyvanse dosage to 70 mg.
- 21. Board staff received Dr. Guillen's Psychiatric Progress Note for a May 29, 2009 visit by Respondent. Dr. Guillen made the following statement in his subjective analysis:

Then the patient reports of an incident on 05/03/09, where she was distraught that this relationship [with her boyfriend] was coming to an end, she was at home, intoxicated, drinking, and her son became concerned, as the patient had locked her room, and had been crying earlier.<sup>1</sup>

Her son called 911 and the patient was taken to Thompson Peak Scottsdale Health Hospital, because Fire Rescue had found her lethargic and unresponsive.

22. On June 3, 2009, the Board issued Interim Order for Residential Evaluation/Treatment and Psychiatric Evaluation in Case No. PA-09-0031A ("Interim Order"). The Interim Order required Respondent to undergo evaluations at The Betty Ford Center on June 8, 2009.

<sup>&</sup>lt;sup>1</sup> Respondent's son was 16 years old at the time of the incident. The son's father, Respondent's exhausband, had committed suicide years earlier.

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- 23. By letter dated June 3, 2009, Board staff furnished Respondent with the Board's Interim Order.
- 24. The Board received a pharmacy survey from Health Information Designs, Inc. for prescriptions written for Respondent from June 19, 2008 to May 22, 2009. The following medications were prescribed to Respondent during that period: Hydrocodone-APAP; Alprazolam; and Vyvnase. The prescribers for those prescriptions were the following: David S. Rosenberg, M.D.; Dr. Guillen; Timothy Perry Davis, P.A.; and Dana Jill Wasserman.
- 25. Respondent was admitted to The Betty Ford Center on June 8, 2009 and discharged on June 10, 2009. At the time of her discharge, staff at The Betty Ford Center recommended to Respondent that she not return to practice until she was approved to do so by the Board.
- 26. The Board received a pharmacy survey from Walgreens for the period of January 3, 2008 to June 19, 2008. During that period of time, the pharmacy dispensed Hydrocodone/APAP, Levaquin, and Oxycodone/APAP to Respondent. There were three prescribers for those medications.
- 27. The Betty Ford Center's Clinical Diagnostic Team diagnosed Respondent with alcohol dependence in early remission and sedative-hypnotic abuse. The team recommended that Respondent undergo 90 days of residential chemical dependency treatment in a program designed for licensed health professional. The team further opined that Respondent is not fit for work until she successfully completes such treatment.
- 28. On June 25, 2009, the Board's Evaluation Review Committee ("ERC") issued a written recommendation, which included the following decision:

ERC unanimously that [Respondent] follow the recommended recommendations from The Betty Ford Center that she undergo chemical dependency treatment. ERC noted that the [sic] Betty Ford Center clinical diagnosis was alcohol dependence, in early full remission. Since this case did not involve any patient care issues, if [Respondent] successfully completes treatment as directed, her case could remain confidential. It is also recommended that [Respondent] enter treatment within 7 days. Board staff will issue [Respondent] a letter asking her to refrain from working until receiving treatment. ERC also noted that since she is a Physician Assistant, she is required to have a Supervising Physician. Jennifer Boucek, Assistant

Attorney General, will contact [Respondent's] attorney to discuss these issues.

- 29. By letter dated June 29, 2009, Ms. Muller informed Respondent's counsel, Debra A. Hill, Esq. that Respondent must enter treatment at a Board approved facility no later than July 3, 2009. Ms. Muller furnished a list of Board approved facilities.
- 30. By email dated June 29, 2009, Ms. Hill advised Ms. Muller that Respondent would need additional time to locate a facility that she could afford and because she cares for her minor son.
- 31. Dr. Greenberg gave the following analysis for the requirement of treatment at a Board approved facility:

Well, the reason is that the Board has more than one responsibility in the sense that the Board really isn't like a family doctor in dealing with a patient who has a problem and trying to pick a place for that patient to get help. The Board also has the responsibility to do what it can to make sure that the treatment is done in a way so it would be effective on that doctor or that P.A. And medical care professionals are pretty notoriously not the best patients to have if you're treating, sometimes for anything, not just alcohol or drugs. It takes some doing, it takes some skilled people frequently in a treatment center to make the initial break-through with the patient that, yes, they have a problem and they are patients and they need to leave their doctor hat or P.A. hat off at the front door and participate as a patient. So there are some additional skills that are necessary.

32. ERC issued a written recommendation dated June 30, 2009, which contained that following decision:

If [Respondent] is unable to comply with the Board's Interim Order for Evaluation/Treatment by entering into a Board approved treatment facility by Friday, July 3, 2009, she may sign a Consent Agreement for Practice Limitation no later than Friday, July 3, 2009.

33. By letter dated July 1, 2009, Respondent's attorney requested that the Board approve Respondent's inpatient treatment at the New Found Life residential facility located in Long Beach, California. That facility is not Board approved, but Respondent was able to get affordable financing at that facility. She was not able to do so at the Board-approved facilities.

- 34. Respondent also requested permission to enter treatment at A Better Tomorrow, which is located in Riverside, California. That facility is not on the Board's approved facility list.
- 35. Respondent did not receive approval to enter the New Found Life or A Better Tomorrow facilities for treatment.
- 36. By letter dated July 1, 2009, the Board's Executive Director, Lisa S. Wynn, informed Respondent's counsel that if Respondent did not receive treatment at a Board approved facility, then she would not be permitted to enter the Board's Monitored Aftercare Program. Executive Director Wynn also forwarded a copy of a Non-Disciplinary Practice Limitation for Respondent's consideration.
- 37. Ms. Muller prepared an Investigative Report dated July 7, 2009, which summarized the Board's investigation of Respondent. Ms. Muller's report concludes that Respondent "presents an imminent danger to the public and requires emergency action."
- 38. On July 8, 2009, Case No. PA-09-0031 came before the Board for consideration. The Board voted to consider summary suspension of Respondent's license. The Board concluded that "Respondent is currently mentally or physically unable to carry out approved health care tasks pursuant to A.R.S. § 32-2551(A). The Board further concluded that "the public safety requires emergency action," pursuant to A.R.S. § 32-2551(C)."
- 39. On July 8, 2009, the Board issued Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension in Case No. PA-09-0031, the terms of which are incorporated herein by reference. The Board summarily suspended Respondent's license pending an evidentiary hearing before the Office of Administrative Hearings, an independent agency.
- 40. The Board forwarded Case No. PA-09-0031 to the Office of Administrative Hearings, where it was designated as Docket No. 09-2433-PAB.
- 41. The Board issued a Complaint and Notice of Hearing advising the parties of the time, date, and location of the formal hearing. The Complaint and Notice of Hearing was sent to Respondent at her address of record with the Board. Ms. Hill no longer represented Respondent.

42. The commencement of the scheduled hearing was delayed 15 minutes to allow for the late arrival of Respondent or an attorney authorized to represent her. After the delay, the Administrative Law Judge conducted the evidentiary hearing in Respondent's absence.

- 43. At the hearing, the Board presented credible evidence to support the factual allegations contained in the Complaint.
- 44. Respondent has not entered treatment at a Board approved treatment facility.

## CONCLUSIONS OF LAW

- 1. Pursuant to A.R.S. § 32-2504, the Board had jurisdiction over Respondent and the subject matter in this case.
- 2. Pursuant to A.R.S. § 41-1092.07(G) (2) and A.A.C. R2-19-119(B), the Board has the burden of proof in this matter. The standard of proof is preponderance of the evidence. A.A.C. R2-19-119(A).
- 3. The conduct and circumstances described in the above Findings of Fact constitute unprofessional conduct by Respondent, pursuant to A.R.S. § 32-2501(21) (d) ("Habitual intemperance in the use of alcohol or habitual substance abuse").
- 4. The conduct and circumstances described in the above Findings of Fact support the conclusion that Respondent is mentally or physically unable to safely engage in the performance of health care tasks as a licensed physician assistant, pursuant to A.R.S. § 32-2551(J).
- 5. The conduct and circumstances described in the above Findings of Fact constitute unprofessional conduct by Respondent, pursuant to A.R.S. § 32-2501 (21) (dd) ("Violating a formal order, probation agreement or stipulation issued or entered into by the board or its executive director").
- 6. The conduct and circumstances described in the above Findings of Fact support the conclusion that the public health, safety or welfare imperatively required emergency action, pursuant to A.R.S. § 32-2551(C), when the Board summarily

suspended Respondent's license to perform health care tasks as a physician assistant in Arizona.

7. The Administrative Law Judge concludes that Respondent should be imposed the cost of hearing, pursuant to A.R.S. § 32-2551(M). There is credible evidence that Respondent has limited financial resources. However, Respondent failed to comply with the Board's Interim Order to receive treatment from a Board approved facility. Respondent was also given the option to enter into a Non-Disciplinary Practice Limitation, which she declined to do. Respondent had two alternatives to avoid formal disciplinary action by the Board. Because Respondent failed to comply with the Board's Interim Order and failed to execute the Non-Disciplinary Practice Limitation offered by the Board, the Board had no option but to summarily suspend her license to protect the public health, safety or welfare, subject to a formal evidentiary hearing. Respondent rather than the Board should incur the expenses of hearing.

#### **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED: The Board's Order of Summary Suspension in Case No. PA-09-0031 is upheld and affirmed as imperatively required emergency action necessary to protect the public health, safety or welfare.

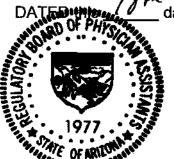
Respondent's License No. 2433 shall be suspended in Case No. PA-09-0031/Docket No. 09A-2433-PAB until Respondent fully complies with the Board's prior Interim Order and the Board approves her reinstatement.

Respondent shall be assessed the costs of formal hearing in this matter. Respondent shall tender payment of those costs within 30 days of receiving an invoice from the Board, unless such deadline date is extended by the Board or its designee. Respondent's license shall not be reinstated in good standing unless those costs have been paid in full to the Board, unless Respondent is granted an extension for payment in full by the Board or its designee.

## RIGHT TO PETITION FOR REHEARING AND REVIEW

**4**  Respondent is hereby notified that she has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after the date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.



day of November, 2009.

THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

LISA S. WYNN Executive Director

ORIGINAL of the foregoing filed this day of November, 2009 with:

Arizona Regulatory Board of Physician Assistants 9545 East Doubletree Ranch Road Scottsdale, Arizona 85258

Executed copy of the foregoing mailed by U.S. Mail this day of November, 2009, to:

Jennifer L. Langley, P.A. Address of Record

Arizona Regulatory Board of Physician Assistants Staff